

Local Government Employee-Management Relations Board E-Newsletter

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August 2017

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Status of Proposed New Regulations

The EMRB held an initial public workshop on July 2th to solicit comments for regulations related to two bills recently enacted into law: AB 113 and SB 460. AB 113 makes it a prohibited practice for a local government to not accommodate a nursing mother with respect to reasonable time off and a clean, private place. AB 113 further requires that the EMRB adopt an expedited review process, including simplified complaint filing and an expedited review by the Commissioner in lieu of the Board. SB 460 increases the size of the Board from three to five members and allows the agency to hear cases in panels of three Board members.

We wish to thank everyone who attended the public workshop and offered comments. Since then we have drafted a proposed set of regulations and we incorporated most of the comments offered at the public workshop. The proposed regulations have been discussed with the Board and with top management within Business & Industry, and we have made further changes to the draft. Within the last day we have forwarded the draft to the Legislative Counsel Bureau, who will formally draft the regulations, and as always, further improve upon them.

Once we receive the formal draft back from the LCB we will then schedule a second public workshop. At that time you will then have the opportunity to comment on actual language as opposed to concepts. To be formally approved, after the next public workshop the Board will then be required to schedule a public hearing and adopt the regulations, subject to final approval by the Legislative Commission.

Department of Business and Industry News

Governor Sandoval announced on August 21st that he had appointed Bruce Breslow, current Director of Business & Industry, to the Public Utilities Commission. We wish Director Breslow well in his new position, which he will assume on September 5th. With respect to the EMRB, Director Breslow was the one who thought of the idea of electronic filing, which has been a resounding success – and he also worked tirelessly to get the EMRB and other agencies into our beautiful new building.

Our new Director will be C.J. Manthe, who has served as the Housing Administrator in Business & Industry since 2014. During her tenure the Housing Division has been recognized as one of the best in the country for helping more than 13,000 Nevadans achieve the dream of home ownership.

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Recent Board Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

Item 824; Case 2017-008; Clark County Education Association v. Clark County School District. The school district and teachers union ratified a new collective bargaining agreement that contained a new salary system called the Professional Growth System (PGS), which allowed teachers to advance in salary based upon how much professional growth classes and activities they undertook. The parties realized the PGS was only a framework which would need to be fleshed out in the months to come. To this end they created a committee to work collaboratively on the PGS post-ratification.

Over the next several months the parties met and agreed to the specifics of the PGS and a guide was drafted. Finally, Superintendent Skorkowsky gave his final approval, which was memorialized in a memorandum of understanding between the parties. Afterwards the committee jointly created and approved a series of communications, tutorials, forms and informational documents about the PGS. Trainings were produced for the educators. At one point Skorkowsky sent a memo to all administrators and licensed staff about the historic effort between CCEA and CCSD. Finally, on August 1, 2016, the parties jointly distributed a Guide to all licensed professionals that was approved as the final version. The Guide contained the logos of both organizations. A film with both the Superintendent and the Executive Director of CCEA was disseminated to all concerned. Based on all this teachers began signing up for professional development, expending both time and money to get the required number of units to qualify for a raise.

Then in January 2017 a CCSD official stated at a PGS Advisory Committee meeting that CCSD would be striking sections of the Guide. The bottom line to the changes was that it would be more difficult, timely and costly for educators to qualify for a raise. In February 2017 CCSD memorialized the changes it intended to make and then shortly thereafter CCSD unilaterally issued a revised Guide which still used the CCEA logo and contact information, which made it appear that CCEA approved of the changes. CCEA thereupon filed a bad faith bargaining complaint, alleging that CCSD unilaterally changed a bargained-for salary system.

The Board found that CCSD had indeed made a unilateral change to the PGS. NRS 288.27(1)(e) states it is a prohibited practice for a local government employer to willfully refuse to bargain collectively in good faith over mandatory subjects of bargaining. Salary is a mandatory subject of bargaining. The Board found that CCSD was estopped from making unilateral changes to the PGS. The doctrine of estoppel has four elements: (1) the party to be estopped must be apprised of the true facts; (2) the party must intend that his conduct shall be acted upon; (3) the party asserting the estoppel must be ignorant of the true state of facts; and (4) he must have relied to his detriment on the conduct of the party to be estopped. The Board found that a number of educators had relied on the PGS and the Guide, to their detriment when CCSD made the unilateral change. The Board thereupon ordered that the PGS be restored to the August 1, 2016, version that both parties had agreed to, except for one issue which the parties had since agreed to suspend and renegotiate.

Did you know that Labor Day became an official national holiday in 1894?

Labor Day, the first Monday in September, is a creation of the labor movement and is dedicated to the social and economic achievements of American workers. According to the Department of Labor website, it constitutes a yearly national tribute to the contributions workers have made to the strength, prosperity, and well-being of our country. Through the years the nation gave increasing emphasis to Labor Day. The first governmental recognition came through municipal ordinances. From these, a movement developed to secure state legislation. The first state bill to become law was passed by Oregon in 1887. By 1894, 23 other states had adopted the holiday in honor of workers, and on June 28 of that year, Congress passed an act making the first Monday in September of each year a legal holiday. So, no matter whether you are in management or a rank-and-file employee, we are all American – and Nevada – workers and we at the EMRB salute you for all you do to make our state a better place to live!

In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has now scheduled cases through October 2017.

September 12-14, 2017 in Las Vegas

2017-006, Jake Grunwald & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

October 10-12, 2017 in Las Vegas

2017-011, SEIU, Local 1107 v. Southern Nevada Health District

The following case is in the queue, waiting for a potential hearing date:

2017-010, Kerns & Las Vegas Police Managers and Supervisors Association v. Las Vegas Metropolitan Police Department

On the Horizon

The next meeting of the Board will be held in Las Vegas on Tuesday, September 12th through Thursday, September 14th. The agenda for the meeting will be issued on Tuesday, September 5th. At that time the Board is scheduled to hear 2017-006, Jake Grunwald & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department. Officer Grunwald agreed to a one-day suspension for having a consensual relationship with a recruit who he was overseeing as a TAC Officer. Officer Grunwald had also applied for the position of Sergeant. After accepting the suspension he learned that his name had been removed from the Sergeant's promotional list. Grunwald and the LVPPA claim that LVMPD committed one or more unilateral changes to the disciplinary matrix by removing his name from the promotional list and for twice disciplining him for the same offense. LVMPD claims there was no unilateral change in that the allegations relate to the Civil Service Rules, which are not part of the collective bargaining agreement.

Thank You for Paying Your Annual Assessment

The EMRB is a self-funded agency, receiving all of its operating funds through local governments paying \$6.75 for each of their employees. The EMRB does not receive any general fund revenues. Virtually all of the local governments have now paid their annual assessment as of the issuance of this e-newsletter. To those who have paid we say, "Thank you very much."

For those few local governments who have yet to pay we will be personally calling you in the next few days. If payment is not received by the end of August we will then send the matter to the Board for further action.

"About the EMRB"

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.